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9 PATRICK SWEENEY, LUCIO FLORES,
10 THOMAS JENNISON, MICHAEL
11 EMANUEL, ROBERT BIRCH, KENNETH
FORBES, BRIAN O'NEIL, and
FREDERICK SIMON,
and all others similarly situated
[additional counsel on signature page]

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

14 NICK CANCELLA, GREG JEWELL, DAVID) Case No. CV 12-03001 CRB
15 BEAUSOLEIL, PATRICK SWEENEY,)
16 LUCIO FLORES, THOMAS JENNISON,)
17 MICHAEL EMANUEL, ROBERT BIRCH,)
18 KENNETH FORBES, BRIAN O'NEIL, and)
19 FREDERICK SIMON, on behalf of)
20 themselves and all others similarly situated,)
21 Plaintiffs,) Date: n/a
22 v.) Time: n/a
23 ECOLAB, INC., a corporation,) Ctrm.: 6
Defendant.) Judge: Hon. Charles R. Breyer
Complaint Filed: June 11, 2012
Trial Date: Not Set

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42 KENNETH FORBES, BRIAN O'NEIL,
43 FREDERICK SIMON, and all others similarly
44 situated

45 **Pro Hac Vice Application Forthcoming*

1 Plaintiffs NICK CANCELLA, GREG JEWELL; DAVE BEAUSOLEIL; and PATRICK
2 SWEENEY (“Plaintiffs”) and Defendant ECOLAB INC. (“Ecolab” or “Defendant”), herein
3 referred to collectively as the “Parties,” hereby stipulate, by and through their respective
4 attorneys of record, as follows:

5 WHEREAS, on August 2, 2013, the Court granted Plaintiffs’ Motion for Conditional
6 Collective Action Certification, *Hoffmann-La Roche* Notice, and Equitable Tolling (Dkt. No.
7 66), granting all putative FLSA Collective Action Members 90 days from the date of the mailing
8 of the Court-approved *Hoffmann-La Roche* Notice to mail their executed Consent to Join forms
9 to Plaintiffs’ counsel, and extending equitable tolling for all putative FLSA Collective Action
10 Members to the conclusion of those 90 days (Dkt. No. 85);

11 WHEREAS, pursuant to the Court’s August 2 order, Plaintiffs retained a third-party
12 Notice Administrator to be responsible for mailing the *Hoffmann-La Roche* Notice to and
13 receiving executed Consent to Join forms from putative FLSA Collective Action Members
14 identified by Ecolab;

15 WHEREAS, pursuant to the Court’s August 2 order, Ecolab provided Plaintiffs with
16 contact information for 1,921 putative FLSA Collective Action Members on August 12, 2013;

17 WHEREAS, on August 27, 2013, the Notice Administrator mailed a copy of the Court-
18 approved *Hoffmann-La Roche* Notice and a blank Consent to Join form to each of the 1,921
19 individuals identified by Ecolab, and for those individuals, the opt-in deadline was November 25,
20 2013 by fax or mail postmarked that date, and the filing deadline was December 25, 2013;

21 WHEREAS, on September 17, 2013, Ecolab provided Plaintiffs with contact information
22 for an additional 39 putative FLSA Collective Action Members not previously identified;

23 WHEREAS, on September 19, 2013, the Notice Administrator mailed a copy of the
24 Court-approved *Hoffmann-La Roche* Notice and a blank Consent to Join form to each of the 39
25 individuals identified by Ecolab on September 17, and for those individuals, the opt-in deadline
26 was December 18, 2013 by fax or mail postmarked that date, and the filing deadline was January
27 17, 2014;

28

1 WHEREAS, Anthony Dixon submitted his signed consent form by fax on November 26,
2 2013, and his form was filed with the Court on November 27, 2013 (*see* Dkt. No. 100);

3 WHEREAS, Thurman Brown submitted his signed consent form dated November 20,
4 2013 by fax on December 3, 2013, and his form was filed with the Court on December 6, 2013
5 (*see* Dkt. No. 101);

6 WHEREAS, Damien Darnell Sears Sr. submitted his signed consent form dated August
7 30, 2013 by mail, which was not received by the Notice Administrator until December 9, 2013
8 with no legible postmark, and his form was filed with the Court on December 9, 2013 (*see* Dkt.
9 No. 102);

10 WHEREAS, Billy Medina Jr. moved and therefore did not receive the mailing from the
11 Notice Administrator because the address Ecolab had provided was outdated, and submitted his
12 signed consent form to Plaintiffs' counsel on December 12, 2013 upon learning about the lawsuit
13 from others; and his consent form was filed with the Court on December 13, 2013 (*see* Dkt. No.
14 103);

15 WHEREAS, Edward Spieler submitted his signed consent form dated November 1, 2013
16 by mail, which was not received by the Notice Administrator until January 16, 2014 with no
17 legible postmark, and his form was filed with the Court on January 16, 2014 (*see* Dkt. No. 105);

18 WHEREAS, Robert Liguori submitted his signed consent form to Plaintiffs' counsel on
19 February 10, 2014, and his form was filed with the Court on February 11, 2014 (*see* Dkt. No.
20 110); and

21 WHEREAS, Bryon Johnson never received his notice in the mail and only recently
22 learned of the lawsuit from other Service Specialists, and promptly upon learning of the suit
23 submitted his signed consent form to Plaintiffs' counsel on February 28, 2014, and his form was
24 filed with the Court that same day (*see* Dkt. No. 115);

25

26 The Parties hereby stipulate as follows:

27 1. The consent to join forms of Anthony Dixon, Thurman Brown, Damian Darnell
28 Sears Sr., Billy Medina Jr., Edward Spieler, Robert Liguori, and Bryon Johnson already filed

1 with the Court shall be deemed valid, and they shall be permitted to join this FLSA Collective
2 Action, but their FLSA claims shall not be equitably tolled beyond November 25, 2013.

3 2. Absent permission of the Court, no other putative FLSA Collective Action
4 Member who did not timely submit a signed consent to join form shall be permitted to join this
5 action.

6

7 Dated: March 31, 2014

/s/ Eve H. Cervantez

8 JAMES M. FINBERG
9 EVE H. CERVANTEZ
CONNIE K. CHAN
10 ALTSHULER BERZON LLP
Attorneys for Plaintiffs

11 Dated: March 31, 2014

/s/ Jody Landry

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13 LINDSEY M. STEVENS
14 LITTLER MENDELSON, P.C.
Attorneys for Defendant

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~~PROPOSED~~ ORDER

Pursuant to the Parties' foregoing stipulation:

1. The consent to join forms of Anthony Dixon, Thurman Brown, Damian Darnell Sears Sr., Billy Medina Jr., Edward Spieler, Robert Liguori, and Bryon Johnson already filed with the Court shall be deemed valid, and they shall be permitted to join this FLSA Collective Action, but their FLSA claims shall not be equitably tolled beyond November 25, 2013.

2. Absent permission of the Court, no other putative FLSA Collective Action Member who did not timely submit a signed consent to join form shall be permitted to join this action.

IT IS SO ORDERED.

Dated: 4/3/14

HON. CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE